IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY FOURTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 14959 of 2004

Between:

1 C. Mohan , S/o Late Dr. P.C. V.L. Narasimha Chari,
R/o H.No. 1-10-120, Ashoknagar, Hyderabad.
2 P.C.M. Narasimha Charyulu, S/o Late Dr. P.C. V.L. Narasimha
Chari, R/o H.No. 1-10-120, Ashoknagar, Hyderabad.
3 C. Ramesh, S/o Late Dr. P.C. V.L. Narasimha Chari,
R/o H.No. 1-10-120, Ashoknagar, Hyderabad.

..... PETITIONERS

AND

1 Municipal Corporation of Hyderabad, rep. by its Special Officer,
Tank Bund, Hyderabad.
2 The District Collector (Land Acquisition), Municipal Corporation
of Hyderabad, Hyderabad.
3 The Director, Urban Community Development,
Municipal Corporation of Hyderabad, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, order or direction, more particularly one in the nature of Writ of Mandamus , declaring the action of the respondents in acquiring petitioner land admeasuring 3000 sq. yards in Sy.No. 137 of Monje Nampally, Narayanaguda, Hyderabad and without paying us any compensation by issuing a Notification under Section 3 (1) and 3(2) of A.P. Slum Improvement Act, 1956 dated 31-8-1982 and 30-4-1983 without any notice to the petitioners, as illegal, arbitrary, against the Articles 14 and 300 of the Constitution of India and also violative of principles of natural justice and direct the respondents to pay the compensation to the petitioners as per law.

Counsel for the Petitioners: SMT.PUSHPINDER KAUR

Counsel for the Respondents: MR.RAMA RAO GANTA

The Court made the following ORDER:

This writ petition is filed by the petitioners challenging the notifications issued under Sections 3(1) and 3(2) of the A.P. Slum Improvement (Acquisition of Land) Act, 1956 (for short 'the Act') dated 31.08.1982 and 30.04.1983 respectively.

The petitioners have already filed W.P.No.20822 of 1993 alleging that the respondent-Municipal Corporation of Hyderabad refused to pay compensation for the land belonging to the petitioners admeasuring 3000 square yards acquired by the Municipal Corporation of Hyderabad, without giving any notice to the petitioners, by way of a notification issued under Section 3(1) of the Act, and prayed to declare the proceedings No. B/3012/UCD/MCH/93-2214 dated 05.10.1993, wherein the Director of the Urban Community Development stated that he has already given a reply dated 24.09.1992 to the petitioners' Advocate, on the representations filed by the petitioners to pay the compensation. This Court elaborately considered the said writ petition, after going through the records and the compromise entered into by the petitioners' mother with slum dwellers agreeing to part away land admeasuring 5500 square yards freely in favour of the slum dwellers, in lieu of the slum dwellers relinquishing their claim for the remaining land, without payment of any compensation and accordingly the notification under Section 3(2) of the Act was issued deleting the remaining land from the declaration issued under Section 3(1) of the Act, and observing that as the validity of the notification issued under Section 3(2) of the Act was not challenged, dismissed the writ petition holding that the petitioners are indulging in speculative litigation.

The learned counsel for the petitioners submits that due to the inadvertence and wrong advise by the counsel they have not challenged the notification in the earlier writ petition and they are now procured the notification and challenged the same by way of present writ petition.

The submissions made by the petitioners in the earlier writ petition was that the compromise entered by the original owner P.C. Seethamma was not binding on them and in view of the family partition deed dated 15.12.1970 filed before this court is an unregistered and unstamped document, this Court held that the same cannot be received and no reliance can be placed upon such document to determine the

rights of the parties.

In view of the categorical finding made earlier, the present writ petition filed by the petitioners is nothing but another speculative litigation resorted to by the petitioners by challenging the notification. When the notification was very much available to be challenged in the earlier writ petition, the petitioners have not chosen to challenge the same. After disposal of the earlier writ petition, it is not open for the petitioners to challenge the said notification, in view of the principles laid down in Order 2 Rule 2 CPC, and also on the ground of latches.

In view of the same, I see no merits in the present writ petition and the same is accordingly dismissed. No order as to costs.

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A.Gopal Reddy, J

Date: 24.08.2004

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To

1 The Special Officer, Municipal Corporation of Hyderabad,
Tank Bund, Hyderabad.
2 The District Collector (Land Acquisition), Municipal Corporation
of Hyderabad, Hyderabad.
3 The Director, Urban Community Development,
Municipal Corporation of Hyderabad, Hyderabad.

4 Two CD Copies